

REMARKS

The present application was filed on January 31, 2001 with claims 1-28. Claims 1-28 remain pending and claims 1, 15 and 23 are independent claims.

In the outstanding Office Action dated August 16, 2004, the Examiner: (i) rejected claims 1, 3, 4 and 15 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,940,118 to Van Schyndel (hereinafter "Van Schyndel"); (ii) rejected claims 2, 16 and 17 under 35 U.S.C. §103(a) as being unpatentable over Van Schyndel in view of U.S. Patent No. 6,222,677 to Budd et al. (hereinafter "Budd"); (iii) rejected claims 6-8 under 35 U.S.C. §103(a) as being unpatentable over Van Schyndel in view of U.S. Patent No. 6,593,956 to Potts et al. (hereinafter "Potts"); (iv) rejected claims 9-11 and 18-20 under 35 U.S.C. §103(a) as being unpatentable over Van Schyndel in view of U.S. Patent No. 6,466,250 to Hein et al. (hereinafter "Hein"); and (v) rejected claims 13, 14 and 22 under 35 U.S.C. §103(a) as being unpatentable over Van Schyndel in view of U.S. Patent No. 6,240,392 to Butnaru et al. (hereinafter "Butnaru").

Applicants acknowledge the indication of allowable subject matter in claims 5, 12, 21 and 23-28.

With regard to the rejection of claims 1, 3, 4 and 15 under 35 U.S.C. §103(a) as being unpatentable over Van Schyndel, Applicants assert that Van Schyndel fails to teach or suggest the individual elements of at least claims 1 and 15.

The present invention, as recited in independent claim 1, recites a method of providing a user with one or more visual indications, in accordance with a display system associated with the user, of who is currently speaking during an event in which the user is engaged. The event includes one or more other individuals. The location of the individual who is currently speaking during the event is identified. It is determined whether the individual identified as the current speaker is within a field of view of the user. A first visual indicator is displayed to the user, in accordance with the display system, in association with the individual identified as the current speaker, when the individual is within the field of view of the user. A second visual indicator is displayed to the user, in accordance with the display system, when the individual identified as the current speaker is not within the field of view of the user. Independent claim 15 recites an apparatus having similar limitations.

Van Schyndel discloses a system that selects and/or steers a directional steerable microphone system based on input from a video camera. The video camera provides input to a processor that controls a steerable directional microphone in the direction of audience members that exhibit physical cues commonly expressed by persons who are speaking or are about to speak.

The Examiner contends that FIG. 5 of Van Schyndel discloses a method of providing a user with visual indications, in accordance with a display system associated with the user, of who is currently speaking during an event in which the user is engaged. However, Van Schyndel fails to disclose a display system associated with a user, and also fails to disclose any visual indications on the display system indicating who is currently speaking during an event.

The Examiner further contends that FIG. 5 and column 9, lines 4-6 of Van Schyndel, provide proper disclosure for a §103(a) rejection regarding a determination of whether an individual identified as a current speaker is within a field of view of the user. However, these portions of Van Schyndel only disclose that a decision is made to determine whether the coordinates of any new imminent talkers have been received from the optical talker location computer, resulting in the steering of a microphone system. A determination of whether any new imminent talkers exist, as in Van Schyndel, differs significantly from a determination of whether a current speaker is in a field of view of a user, as recited in claim 1 of the present invention.

Further, Applicants assert that a field of view of a user as disclosed in the present invention differs significantly from a field of “audible perception” as explained in the Office Action. However, assuming *arguendo*, that they may be comparable, there is no discussion in Van Schyndel of a determination of whether the current speaker is within a field of “audible perception” of the user. A microphone is simply steered toward a current speaker whether or not the current speaker was previously in the field of audible perception before the movement. Thus, there is no disclosure in Van Schyndel of a determination of whether an individual identified as the current speaker is within the field of view of the user.

Finally, the Examiner contends that FIG. 5, column 7, lines 35-46, and column 9, lines 22-36 of Van Schyndel, provide proper disclosure for a §103(a) rejection regarding the displaying of a first visual indicator to the user, in accordance with the display system, in association with the individual

identified as the current speaker when the individual is within the field of view of the user. However, Van Schyndel only discloses a video of a person that is speaking, and fails to disclose any visual indicators that are displayed in accordance with the display system in association with the current speaker.

The Examiner acknowledges that Van Schyndel does not disclose the displaying of a second visual indicator to the user, in accordance with the display system, when the individual identified as the current speaker is not within the field of view of the user. Again, Applicants assert that Van Schyndel fails to disclose the display of any visual indicators. Further, the Examiner has provided no explanation as to how Van Schyndel provides proper support for a §103(a) rejection regarding this element of the claim.

The Examiner acknowledges that Van Schyndel does not disclose the determining of whether the current speaker is within a field of view of the user, but contends that it is well-known to direct a camera at a determined sound source to provide coordinated video/audio and eliminate the need for a human operator. This teaches directly away from the present invention, which recites a display system associated with a user which provides the user with one or more visual indications. One of the visual indicators is provided to the user when a current speaker is not within the field of view of the user. This allows the user to change his/her own field of view. Thus, the use of the present invention with a human user is an essential aspect of the present invention.

Furthermore, the Federal Circuit has stated that when patentability turns on the question of obviousness, the obviousness determination “must be based on objective evidence of record” and that “this precedent has been reinforced in myriad decisions, and cannot be dispensed with.” In re Lee, 277 F.3d 1338, 1343 (Fed. Cir. 2002). Moreover, the Federal Circuit has stated that “conclusory statements” by an examiner fail to adequately address the factual question of motivation, which is material to patentability and cannot be resolved “on subjective belief and unknown authority.” Id. at 1343-1344.

In the Office Action at page 4, paragraph 1, the Examiner provides the following statement to prove motivation to modify Van Schyndel, with emphasis supplied:

It would have been obvious . . . to modify Van Schyndel in order to determine whether the current speaker is within the field of view of the user as well as the field of audible perception and then direct the camera toward the speaker for display to the user . . . , the motivation being to provide coordinated video/audio and eliminate the need for a human operator.

Applicants submit that this statement is based on the type of “subjective belief and unknown authority” that the Federal Circuit has indicated provides insufficient support for an obviousness rejection. More specifically, the Examiner fails to identify any objective evidence of record which supports the proposed modification.

Dependent claims 3 and 4 are patentable at least by virtue of their dependency from independent claim 1. The patentability of independent claim 1 is described above. Dependent claims 3 and 4 also recite patentable subject matter in their own right. Accordingly, withdrawal of the rejection of claims 1, 3, 4 and 15 under 35 U.S.C. §103(a) is therefore respectfully requested.

With regard to the rejection of claims 2, 16 and 17 under 35 U.S.C. §103(a) as being unpatentable over Van Schyndel in view of Budd, Applicants submit that claims 2, 16 and 17 are patentable over the cited references not only due to their dependence on claims 1 and 15, but also because such claims recite patentable subject matter in their own right. Further, Applicants point out that the assignment of both the present invention and Budd to International Business Machines, Corp. precludes the use of Budd as a reference under 35 U.S.C. §103(c).

With regard to the rejection of claims 6-8 under 35 U.S.C. §103(a) as being unpatentable over Van Schyndel in view of Potts, Applicants assert that the Examiner has failed to set forth a proper §103(a) rejection as set forth in M.P.E.P. §2143.

Three requirements must be met to establish a prima facie case of obviousness. First, there must be some suggestion or motivation to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the cited combination must teach or suggest all the claim limitations. While it is sufficient to show that a prima facie case of obviousness has not been established by showing that one of the requirements has not been met, Applicants respectfully believe that none of the requirements have been met.

In the Office Action, the Examiner provides the following statement to prove motivation to combine Van Schyndel with Potts, at page 6, paragraph 6, with emphasis supplied:

It would have been obvious . . . to modify Van Schyndel as taught by Potts et al. in order to improve the speaker detection, since the combined use of both audio and video detection modules to identify the current speaker would improve the overall reliability of the system.

Applicants submit that this statement is based on the type of “subjective belief and unknown authority” that the Federal Circuit has indicated provides insufficient support for an obviousness rejection. The Examiner fails to identify any objective evidence of record which supports the proposed combination. Even assuming, *arguendo*, that the Van Schyndel and Potts references can be combined, Applicants assert that there is no reasonable expectation of success in achieving the present invention through a combination of Van Schyndel and Potts absent the teachings of the present invention.

Further, Applicants respectfully assert that claims 6-8 are patentable over Van Schyndel and Potts not only due to their dependence from independent claim 1, but also because such claims recite patentable subject matter in their own right. Accordingly, withdrawal of the rejection of claims 6-8 under 35 U.S.C. §103(a) is therefore respectfully requested.

With regard to the rejection of claims 9-11 and 18-20 under 35 U.S.C. §103(a) as being unpatentable over Van Schyndel in view of Hein, Applicants again assert that the Examiner has failed to set forth a proper §103(a) rejection as set forth in M.P.E.P. §2143.

In the Office Action, the Examiner provides the following statement to prove motivation to combine Van Schyndel and Hein, at page 7, paragraph 5, with emphasis supplied:

It would have been obvious . . . to modify Van Schyndel et al. [sic] as taught by Hein et al. in order to identify the current speaker located in the field of view of the user, because, as it is well-known in the art, the indicator would point out the current speaker from a group of people.

Applicants again submit that this statement is based on the type of “subjective belief and unknown authority” that the Federal Circuit has indicated provides insufficient support for an obviousness rejection. The Examiner again fails to identify any objective evidence of record which supports the proposed combination. Even assuming, *arguendo*, that the Van Schyndel and Hein references can be combined, Applicants assert that there is no reasonable expectation of success in achieving the present invention through a combination of Van Schyndel and Hein absent the teachings of the present invention.

Further, Applicants respectfully assert that claims 9-11 and 18-20 are patentable over Van Schyndel and Hein not only due to their dependence from independent claims 1 and 15, but also because such claims recite patentable subject matter in their own right. Accordingly, withdrawal of the rejection of claims 9-11 and 18-20 under 35 U.S.C. §103(a) is therefore respectfully requested.

With regard to the rejection of claims 13, 14 and 22 under 35 U.S.C. §103(a) as being unpatentable over Van Schyndel in view of Butnaru, Applicants again assert that the Examiner has failed to set forth a proper §103(a) rejection as set forth in M.P.E.P. §2143.

In the Office Action, the Examiner provides the following statement to prove motivation to combine Van Schyndel and Butnaru, at page 8, paragraph 3, with emphasis supplied:

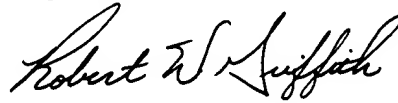
It would have been obvious . . . to modify Van Schydel et al. [sic] as taught by Butnaru et al. to enable the deaf people using the system to participate in the videoconferencing or other forms of telecommunications.

Applicants again submit that this statement is based on the type of “subjective belief and unknown authority” that the Federal Circuit has indicated provides insufficient support for an obviousness rejection. The Examiner again fails to identify any objective evidence of record which supports the proposed combination. Even assuming, *arguendo*, that the Van Schyndel and Butnaru references can be combined, Applicants assert that there is no reasonable expectation of success in achieving the present invention through a combination of Van Schyndel and Butnaru absent the teachings of the present invention.

Further, Applicants respectfully assert that claims 13, 14 and 22 are patentable over Van Schyndel and Butnaru not only due to their dependence from independent claims 1 and 15, but also because such claims recite patentable subject matter in their own right. Accordingly, withdrawal of the rejection of claims 13, 14 and 22 under 35 U.S.C. §103(a) is therefore respectfully requested.

In view of the above, Applicants believe that claims 1-28 are in condition for allowance, and respectfully request withdrawal of the §103(a) rejections.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert W. Griffith". The signature is fluid and cursive, with the first name "Robert" and last name "Griffith" clearly distinguishable.

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